

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Robert Jonathan Teronde, III)	Civil Action No.: 8:07-995-TLW-BHH
)	
Plaintiff,)	
)	
vs.)	<u>REPORT AND RECOMMENDATION</u>
)	<u>OF MAGISTRATE JUDGE</u>
J. Richardson; B. Wright; P. Tucker;)	
and Lexington County Sheriff's)	
Department)	
)	
Defendants.)	

The plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On September 5, 2007, the defendants filed a motion for summary judgment. By order of this court filed September 6, 2007, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Despite this explanation, the plaintiff elected not to respond to the motion.

As the plaintiff is proceeding *pro se*, the court filed a second order on October 18, 2007, giving the plaintiff through November 5, 2007, to file his response to the motion for summary judgment. That order, which was mailed to the plaintiff at the Lexington County Detention Center, was returned as "undeliverable/no longer here" on October 29, 2007, was re-mailed that same date to the plaintiff at Lieber Correctional Institution, and his response date was reset to November 21, 2007. The plaintiff was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. The plaintiff did not respond and the order was not returned.

Based on the foregoing, it appears the plaintiff no longer wishes to pursue this

action. Accordingly, it is recommended that this action be dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir.1982). See *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

s/Bruce H. Hendricks
United States Magistrate Judge

November 28, 2007

Greenville, South Carolina